

CNYCC Deficit Reduction Act Policy

Deficit Reduction Act

The Deficit Reduction Act of 2005 (DRA) mandates notification about certain compliance laws for organizations that receive \$5 million or more annually in Medicaid payments. The DRA is intended to reduce fraud, waste, and abuse in federal and state health care programs through employee and contractor education about: (a) federal and state laws that prohibit false claims; (b) civil and criminal penalties; and (c) protections from retaliation for employees who report wrongdoing, misconduct, or violations of laws and regulations in good faith. CNYCC is fully committed to compliance with the DRA.

A. Federal False Claims Act

The Federal False Claims Act covers fraud involving any federally-funded contract or program, including Medicare or Medicaid, and establishes liability for any person or entity that knowingly presents or causes to be presented a false or fraudulent claim to the government for payment under Medicare or Medicaid. A violation will occur if a person or organization knows that a claim or statements supporting it are false, meaning that a person or organization knows the statement(s) are false, or acts with deliberate ignorance or reckless disregard of the truth.

Federal False Claims Act Liability. Violations of the False Claims Act can result in civil monetary penalties ranging from \$5,000 to \$11,000 for each false claim submitted and repayment of three times the amount of damages sustained by the U.S. government. A provider or contractor found in violation may also be excluded from participation in federal or state health care programs.

Examples of False Claims Under Medicare and Medicaid:

- Billing for medical services that were not provided;
- Billing for undocumented or medically unnecessary services;
- Duplicate billing;
- Knowingly making false statements or relying on false data or information to support a claim for reimbursement or payment; and
- Participating in kickbacks (payments or other types of compensation) made in order to influence referrals for services paid for by Medicare or Medicaid.

Qui Tam Whistleblower Provisions and Protections. As a means to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act “whistleblower” provision allows a person with actual knowledge of allegedly false claims to file a lawsuit on behalf of the government and potentially share in a percentage of the amount recovered as well as recovery of reasonable attorney’s fees and other costs of the lawsuit. In addition, both federal and New York State law protect whistleblowers who act in good faith from retaliation or harassment of any kind for

reporting an action, policy, or practice that constitutes fraud, or for taking other actions to further the purposes of the False Claims Act.

B. New York State Prohibition Against False Claims

New York State law (Social Services Law § 145-b; New York State Finance Law § 189) also bars reliance on false or fraudulent statements to obtain payment of state funds, including Medicaid. For purposes of New York State law, a “statement” includes any claim, ratification or report of data which serves as the basis for a claim, or financial or other information submitted as a basis to seek payment of Medicaid funds. A violation will occur if a person or organization knows that the claim or statements supporting it are false, meaning that a person or organization knows the statement(s) is false, or acts with deliberate ignorance or reckless disregard of the truth. The penalty for a false claim under New York State Law may include: (a) civil damages in three times the amount of any claim or false figure submitted for reimbursement; (b) an amount equal to \$6,000-12,000 plus three times the amount of all damages; and (c) any other remedies available under law, including criminal liability.

C. CNYCC Compliance Program

CNYCC is committed to conducting its operations in accordance with all applicable laws, regulations and policies, and high ethical standards. CNYCC has a comprehensive compliance program (Compliance Program) and policies to prevent, detect, and remediate fraud, waste and abuse. The Code of Conduct for CNYCC employees and the Code of Conduct for CNYCC and Partner Organizations lay out the substantive standards and expectations of the CNYCC Compliance Program. The CNYCC Compliance Plan and the CNYCC Compliance Policies and Procedures specify the processes to carry out the Compliance Program. Copies of the CNYCC Compliance Program documents, including the Code of Conduct, Compliance Plan, and Compliance Policies and Procedures are available at www.cnycares.org.

D. Reporting Compliance Violations

All governing body members, staff, and contractors for CNYCC and Partner Organizations have a responsibility, and are required to report promptly, any activity in a CNYCC project or operations that appears to violate applicable laws, rules, regulations, or the CNYCC Code of Conduct, through the appropriate channels of communication in their own organizations, directly to the CNYCC Compliance Officer, or through the CNYCC Hotline.

The CNYCC Compliance Hotline enables individuals to report problems and concerns or obtain clarification about compliance issues confidentially on an anonymous or non-anonymous basis. Hotline conversations are not recorded or traced. The toll-free Hotline # is 855-343-5598. The CNYCC Compliance Officer will investigate all Hotline calls.